

Applicants respectfully submit an obviousness-type double patenting rejection is not proper under the present circumstances. There are four named inventors in the present application: Kasina, Reno, Fritzberg and Tait. The present application is a continuation of U.S. Application No. 09/632,387 which is a continuation of U.S. Application No. 09/291,823 which is a continuation of U.S. Application No. 08/690,184 ('184 Application). In the '184 Application, three of the named inventors (Kasina, Reno and Fritzberg) assigned their rights to NeoRx Corporation and the fourth named inventor (Tait) assigned his rights to the University of Washington. Copies of the two assignments, which are applicable to the present continuation application, are submitted herewith. Thus, the present application is jointly owned by NeoRx Corporation and the University of Washington.

As noted above, U.S. Patent No. 6,323,313 ('313 Patent) has been cited for an obviousness-type double patenting rejection. The '313 Patent is assigned on its face to a single owner: the University of Washington. Therefore, the present application and the '313 Patent are not commonly owned as required by 37 C.F.R. § 1.130(b).

It is respectfully submitted that an obviousness-type double patenting rejection is not appropriate under the present circumstances. Withdrawal of this rejection is respectfully requested.

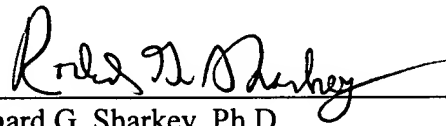
Further, the '313 Patent is not citable as prior art against the present application. The present application was filed July 30, 2001 and the '313 Patent issued later that year on November 27, 2001. Therefore, the '313 Patent is not citable as a printed publication against the present application. On the face of the '313 Patent, the filing date is June 1, 1999 and no priority claim is listed. Thus, the Section 102(e) date for the '313 Patent is June 1, 1999. As described above, the present application is a continuation that claims priority via prior continuations (with no intervening continuations-in-part) to U.S. Application No. 08/690,184 which was filed July 26, 1996. Therefore, the present application has an effective filing date of July 26, 1996, which is nearly three years prior to the Section 102(e) date of the '313 Patent. Accordingly, the '313 Patent is not prior art to the present application under Section 102(e). It is respectfully submitted that the '313 Patent is not citable art against the present application.

Therefore, in light of the remarks set forth above, Applicants believe all the Examiner's rejections have been overcome. Reconsideration and allowance of the pending claims (66-72 and 74-77) are respectfully.

If there is any further matter requiring attention prior to allowance of the subject application, the Examiner is respectfully requested to contact the undersigned attorney (at 206-622-4900) to resolve the matter.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC



Richard G. Sharkey, Ph.D.

Registration No. 36,629

Customer Number
00500

Enclosures:

Postcard

Copy of Assignments (2)



ASSIGNMENT

WHEREAS, we, Sudhakar Kasina, John M. Reno and Alan R. Fritzberg (hereinafter referred to as ASSIGNORS), having post office addresses of 8215 East Mercer Way, Mercer Island, Washington 98040, 2452 Elm Drive, Brier, Washington 98036, and 16703 74th Place West, Edmonds, Washington 98026, respectively, are the joint inventors, along with Jonathan Tait, of an invention entitled "RADIOLABELED ANNEXIN CONJUGATES WITH HEXOSE AND A CHELATOR," as described and claimed in the specification for which an application for United States letters patent was filed on July 26, 1996, and assigned Application No. 08/690,184.

WHEREAS, NeoRx Corporation (hereinafter referred to as ASSIGNEE), a corporation of the State of Washington having a place of business at 410 West Harrison, Seattle, Washington 98119, is desirous of acquiring our entire right, title and interest in and to the invention and in and to any letters patent that may be granted therefor in the United States and in any and all foreign countries;

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNORS hereby sell, assign and transfer unto said ASSIGNEE their entire right, title and interest in and to said invention, said application and any and all letters patent which may be granted for said invention in the United States of America and its territorial possessions and in any and all foreign countries, and in any and all divisions, reissues and continuations thereof, including the right to file foreign applications directly in the name of ASSIGNEE and to claim priority rights deriving from said United States application to which said foreign applications are entitled by virtue of international convention, treaty or otherwise, said invention, application and all letters patent on said invention to be held and enjoyed by ASSIGNEE and its successors and assigns as fully and entirely as the same would have been held and enjoyed by ASSIGNORS had this assignment, transfer and sale not been made. ASSIGNORS hereby authorize and request the Commissioner of Patents and Trademarks to issue all letters patent on said invention to ASSIGNEE. ASSIGNORS agree to execute all instruments and documents required for the making and prosecution of applications for United States and foreign letters patent on said invention, for litigation regarding letters patent, or for the purpose of protecting title to said invention or letters patent therefor.

December 22, 1998
Date

Sudhakar
Sudhakar Kasina

State of Washington
County of King

SS.

I certify that I know or have satisfactory evidence that Sudhakar Kasina is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.



Dated December 22, 1998

Signature of Notary Public Amara R. Belland

Printed Name AMARA R. BELLAND

My appointment expires 11-11-01

December 28, 1998
Date

John M. Reno
John M. Reno

State of Washington
County of Snohomish

SS.

I certify that I know or have satisfactory evidence that John M. Reno is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated December 28, 1998

Signature of Notary Public T. H. Craver

Printed Name T. H. Craver

My appointment expires 9-4-99

December 22, 1998
Date

Alan R. Fritzberg
Alan R. Fritzberg

State of Washington)

County of King)

SS.

I certify that I know or have satisfactory evidence that Alan R. Fritzberg is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.



Dated December 22, 1998

Signature of Notary Public Tamara R. Belland

Printed Name TAMARA R. BELLAND

My appointment expires 11-11-01

ASSIGNMENT

WHEREAS, I, Jonathan F. Tait (hereinafter referred to as ASSIGNOR), having a post office address of 13716 - 39th Avenue N.E., Seattle, Washington 98125, am a joint inventor, along with Sudhakar Kasina, John M. Reno and Alan R. Fritzberg, of an invention entitled "RADIOLABELED ANNEXIN CONJUGATES WITH HEXOSE AND A CHELATOR," as described and claimed in the specification for which an application for United States letters patent was filed on July 26, 1996, and assigned Application No. 08/690,184; and

WHEREAS, the University of Washington (hereinafter referred to as ASSIGNEE), a nonprofit organization of the State of Washington having a place of business at Seattle, Washington 98195, is desirous of acquiring my entire right, title and interest in and to the invention and in and to any letters patent that may be granted therefor in the United States and in any and all foreign countries;

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNOR hereby sells, assigns and transfers unto said ASSIGNEE his entire right, title and interest in and to said invention, said application and any and all letters patent which may be granted for said invention in the United States of America and its territorial possessions and in any and all foreign countries, and in any and all divisions, reissues and continuations thereof, including the right to file foreign applications directly in the name of ASSIGNEE and to claim priority rights deriving from said United States application to which said foreign applications are entitled by virtue of international convention, treaty or otherwise, said invention, application and all letters patent on said invention to be held and enjoyed by ASSIGNEE and its successors and assigns for their use and benefit and of their successors and assigns as fully and entirely as the same would have been held and enjoyed by ASSIGNOR had this assignment, transfer and sale not been made. ASSIGNOR hereby authorizes and requests the Commissioner of Patents and Trademarks to issue all letters patent on said invention to ASSIGNEE. ASSIGNOR agrees to execute all instruments and documents required for the making and prosecution of applications for United States and foreign letters patent on said invention, for litigation regarding said letters patent, or for the purpose of protecting title to said invention or letters patent therefor.

January 7, 1999
Date

Jonathan F. Tait
Jonathan F. Tait

State of WASHINGTON)
County of KING)

ss.

I certify that I know or have satisfactory evidence that Jonathan F. Tait is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.



Dated January 7, 1999
Signature of Notary Public Jim W. Ponder
Printed Name JIM W. PONDER
My appointment expires 3/1/2000